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SEP 23 2008

In re Application of	:	
Daisuke Kozuka, et al.	:	
Application No. 10/800,794	:	ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. 112780-042	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 17, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 18, 2006. The Notice of Abandonment was mailed April 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of \$1,540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of

this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The change of address filed herewith petition was not entered because it was not signed by an attorney of record. Michael S. Leonard was never given power attorney, he was listed to receive correspondences.

Also, the terminal disclaimer is not required for this petition since this utility/plant patent application was filed after June 8, 1995. Furthermore, since Michael S. Leonard is not an attorney of record, the terminal disclaimer is not accepted.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3753 for appropriate action on the concurrently filed amendment.



Chris Bottorff  
Petitions Examiner  
Office of Petitions

cc: **Michael S. Leonard**  
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